

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TORRENCE LEWIS,

Petitioner,

v.

JEREMY BEAN, *et al.*,

Respondents.

Case No. 2:21-cv-01971-ART-VCF

ORDER

In this habeas corpus action, on September 25, 2023, Petitioner Torrence Lewis, represented by appointed counsel, filed an amended habeas petition (ECF No. 32), along with several exhibits (ECF Nos. 33, 35, 36).

On September 25, 2023, Lewis also filed a motion for leave to file exhibits under seal (ECF No. 34), requesting leave of court to file certain of his exhibits under seal. The exhibits that Lewis seeks to file under seal are his Exhibits 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 and 41. (*See* ECF No. 34.) Lewis states that he wishes to file his Exhibits 28, 29, 30, 36, 37, 38, 39, 40 and 41 under seal because they contain medical records, and that he wishes to file his Exhibit 35 under seal because it is a presentence investigation report. (*See id.*) Respondents filed a response to Lewis's motion (ECF No. 37), stating that they do not object to Lewis filing those exhibits under seal.

While there is a strong presumption in favor of public access to judicial filings and while courts prefer that the public retain access them, *see Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978), a court may seal its records if a party demonstrates "compelling reasons" to do so. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178–79 (9th Cir. 2006). "Compelling reasons" exist where the records could be used for improper purposes.

1 *Kamakana*, 447 F.3d at 1179 (citing *Nixon*, 435 U.S. at 598). Under Nevada law,
2 presentence investigation reports are confidential, and are not to be made part of
3 a public record. See NRS 176.156(5). The presentence investigation report filed
4 by Lewis in this case contains sensitive confidential information that could be
5 used for improper purposes. In view of the state law and considering the nature
6 of the information in the presentence investigation report, the Court finds that
7 there are compelling reasons for the presentence investigation report to be filed
8 under seal. In addition, the Court finds that there are compelling reasons to file
9 under seal documents containing confidential medical information. Therefore,
10 the Court will grant Lewis's motion to file under seal his Exhibits 28, 29, 30, 35,
11 36, 37, 38, 39, 40 and 41.

12 Lewis's Exhibits 31, 32, 33 and 34 are police records—"body cam footage."
13 Lewis does not, in his motion (ECF No. 34), make any argument regarding any
14 need to file those exhibits under seal. Therefore, the Court will deny Lewis's
15 motion for leave to file those four exhibits under seal. Those four exhibits will not
16 be unsealed immediately, however. The denial of the motion to seal those four
17 exhibits will be without prejudice to Lewis filing a new motion for leave to file
18 them under seal within 20 days following the entry of this order. If Lewis does not
19 file such a motion within 20 days following the entry of this order, those four
20 exhibits will be ordered unsealed.

21 It is therefore ordered that Petitioner's Motion to File Exhibits Under Seal
22 (ECF No. 34) is granted in part and denied in part. Petitioner is granted leave of
23 court to file his Exhibits 28, 29, 30, 35, 36, 37, 38, 39, 40 and 41 under seal. As
24 those exhibits have already been filed under seal (ECF No. 35), no further action
25 is necessary in this regard.

26 It is further ordered that Petitioner's motion (ECF No. 34) is denied, without
27 prejudice, with respect to his Exhibits 31, 32, 33 and 34. Lewis may file a new
28 motion for leave to file those four exhibits under seal within 20 days following the

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2 entry of this order. If Lewis does not file such a motion within 20 days following
3 the entry of this order, those four exhibits will be ordered unsealed.

4 It is further ordered that, pursuant to Federal Rule of Civil Procedure 25(d),
5 Jeremy Bean is substituted for Tim Garrett as the respondent warden. The Clerk
6 of the Court is directed to update the docket to reflect this change.

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9 DATED THIS 19th day of October 2023.

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12 ANNE R. TRAUM
13 UNITED STATES DISTRICT JUDGE
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